## CCRB INVESTIGATIVE RECOMMENDATION

Investigator:		Team:	CCRB Case #:	V	Force		Discourt.		U.S.
Lily Kim		Squad #06	202003500	Ø	Abuse		O.L.		Injury
Incident Date(s)		Location of Incident:	•		18 N	Ao. S	OL	F	Precinct:
Thursday, 05/21/2020 7:05 PM In fro		In front of § 87(2)(b)	ont of § 87(2)(b)		5/4/2022				40
Date/Time CV Reported		CV Reported At:	How CV Reported	l:	Date/Tim	e Rec	eived at CCl	RB	
Fri, 05/22/2020 2:53 PM		CCRB	On-line website		Fri, 05/22	2/2020	2:53 PM		
Complainant/Victim	Туре	Home Add	ress						
	Турс		Legs						
Witness(es)		Home Add	ress						
Subject Officer(s)	Shield	TaxID	Command						
1. Officers									
2. POM Jayther Liriano	27634	964614	PSA 7						
3. An officer									
4. POM Thomas Rossi	07591	961205	PSA 7						
5. PO Jose Cordero	14899	956547	PSA 7						
6. PO Jimmy Perez	08269	941242	PSA 7						
Witness Officer(s)	Shield No	o Tax No	Cmd Name						
1. POM Ernst Celestin	28671	966991	040 PCT						
2. POM Michael Visintin	14001	953536	PSA 7						
3. POM Charlie Nunez	00789	961012	PSA 7						
4. SGT Joey Alix	00456	933789	PSA 7						
5. POM Brett Malfetano	14275	966183	040 PCT						
6. POM Stephen Barry	17142	954525	040 DET						
7. POM Scott Pariona	23554	963198	040 PCT						
8. POM Luke Speranza	11812	965879	040 PCT						
9. POM Nivez Hernandez	19129	958693	PSA 7						
10. POM Harrynson Lopez	28226	955086	040 PCT						
11. POM Peter Delohery	29163	967037	040 PCT						
12. POM Michael Mcdonald	21164	963152	040 PCT						
13. POM Christophe Pruner	06305	962028	040 PCT						
14. POF Lorangy Vasquez	22078	960048	PSA 7						
15. LT Anselmo Ioele	00000	938869	PSA 7						

Witness Officer(s)	Shield No	Tax No	Cmd Name	
16. PO Benito Cruz	00177	938295	047 DET	
17. PO Moises Garcia	07709	970538	047 PCT	
18. SGT William Miller	03280	930740	040 PCT	
Officer(s)	Allegation			<b>Investigator Recommendation</b>
A . POM Jayther Liriano	Force: Police Of against § 87(2)(b)	ficer Jayther	Liriano used physical force	
B . Officers	Force: Officers t	used physical	force against § 87(2)(b)	
C . PO Jimmy Perez	Force: Police Of against § 87(2)(b)	ficer Jimmy I	Perez used physical force	
D . PO Jimmy Perez	Force: Police Of § 87(2)(6)	ficer Jimmy I	Perez used a chokehold against	
E . An officer	Force: An office	r used physic	al force against § 87(2)(b)	
F . PO Jose Cordero		ficer Jose Conthing.	rdero restricted § 87(2)(b)	
G. Officers	Force: Officers s	struck § 87(2)(b)	with asps.	
H. An officer	Force: An office	r used physic	al force against (8 87(2))	
I. An officer	Abuse: An office	er threatened	to arrest § 87(2)(b)	
J. An officer	Abuse: An office	er threatened	to arrest an individual.	
K . POM Thomas Rossi	Force: Police Of against § 87(2)(b)	ficer Thomas	Rossi used physical force	
§ 87(2)(g), § 87(4-b)		§ 87(2)(g),	§ 87(4-b)	

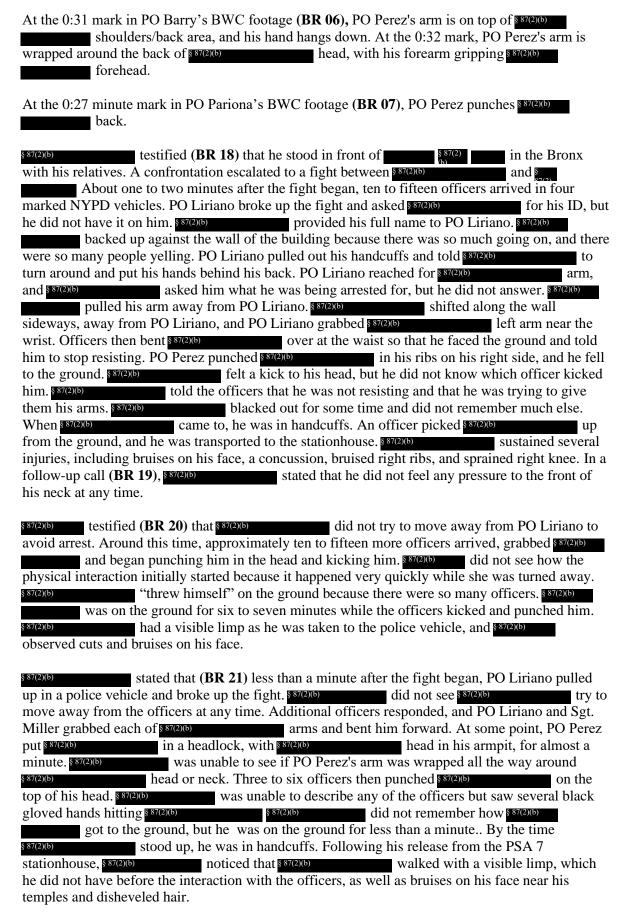
§ 87(2)(g), § 87(4-b)

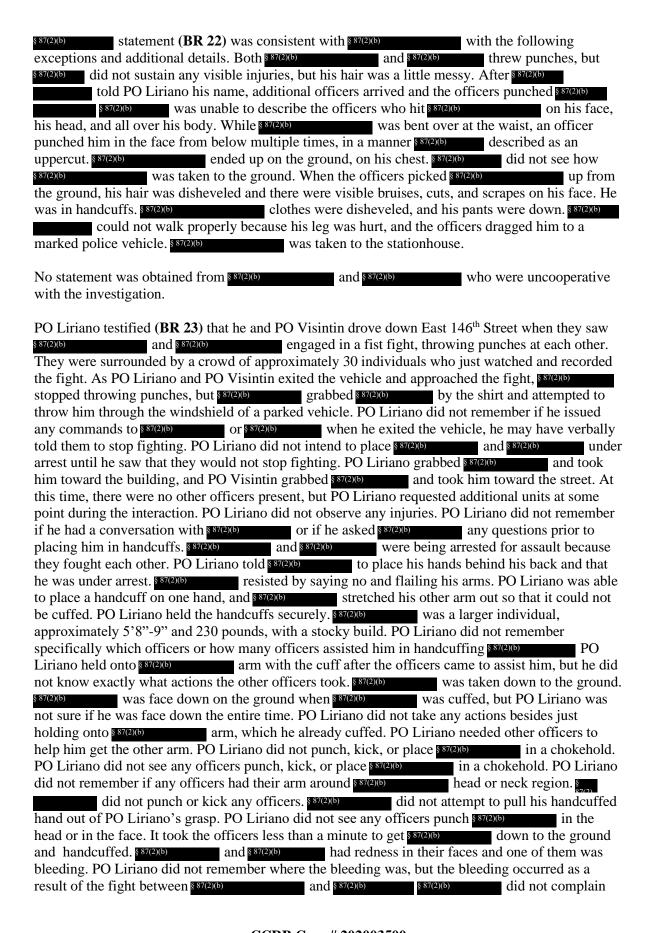
## **Case Summary**

On May 22, 2020, § 87(2)(b) filed the following complaint via the CCRB online complaint form. On May 21, 2020 at approximately 7:05 p.m., \$87(2)(b) was in front of § 87(2)(b) in the Bronx, with his relatives, § 87(2)(b) and § 87(2) A physical fight ensued between \$87(2)(b) and a stranger, § 87(2)(b) PO Jayther Liriano and PO Michael Visintin of PSA 7 arrived in a police vehicle and broke up the fight. PO Liriano stated that he will issue a summons to both individuals. When PO Liriano learned name, he recognized it and immediately attempted to place \$87(2)(b) into handcuffs. Additional officers arrived, including PO Scott Pariona, Sgt. William Miller, and PO Brett Malfetano of the 40th Precinct and PO Jimmy Perez and PO Jose Cordero of PSA 7. Officers assisted PO Liriano in taking § 87(2)(b) down to the ground and handcuffing him (Allegations A-B—Force, \$87(2)(g) PO Perez punched 8 87(2)(6) in his ribs on his right side (Allegation C—Force, \$87(2)(g) While § 87(2)(b) was bent over at the waist, PO Perez allegedly used a chokehold on \$87(2)(b) (Allegation D— Force, § 87(2)(g) When § 87(2)(b) was on the ground, an officer allegedly kicked in the head (Allegation E–Force, § 87(2)(g) PO Cordero kneeled and applied pressure on the back of § 87(2)(b) neck, and § 87(2)(b) stated multiple times that he could not breathe (Allegation F—Force, \$87(2)(g) Three to four (Allegation G—Force, §87(2)(g) unspecified officers used their asps to hit \$87(2)(b) An officer allegedly pushed and threatened to arrest §87(2)(b) ■ (Allegations H and I—Force and Abuse of Authority, § 87(2)(g) An officer also allegedly threatened to arrest an unidentified passerby who told the officers that what they were doing was wrong (Allegation J—Abuse of Authority, § 87(2)(g) PO Rossi allegedly pushed § 87(2)(b) (Allegation K—Force, § 87(2)(g) were both arrested and released with DATs. § 87(2)(b) were both charged with assault with intent to cause physical injury, and was additionally charged with disorderly conduct (fight/violent behavior). Cellphone video (BR 01) and 16 BWC videos (BR 02-18) were obtained by the investigation. Sgt. Miller's BWC footage was not obtained because his camera malfunctioned and he properly notated this in his memo book. **Findings and Recommendations** Allegation A—Force: PO Jayther Liriano used physical force against \$87(2)(6) Allegation B – Force: Officers used physical force against \$87(2)(6) Allegation C—Force: PO Jimmy Perez used physical force against \$87(2)(6) Allegation D—Force: Police Officer Jimmy Perez used a chokehold against security Allegation E—Force: An officer used physical force against \$87(2)(6) It is undisputed that § 87(2)(b) engaged in a physical fight that PO and § 87(2)(b) Visintin and PO Liriano broke up. PO Visintin arrested § 87(2)(6) and additional units were requested to the location. At the 1:04 minute mark in PO Liriano's BWC footage (**BR 04**), §87(2)(b) pull his left arm out of PO Liriano's grasp. A physical struggle ensues as officers approach and take

CCRB Case # 202003500

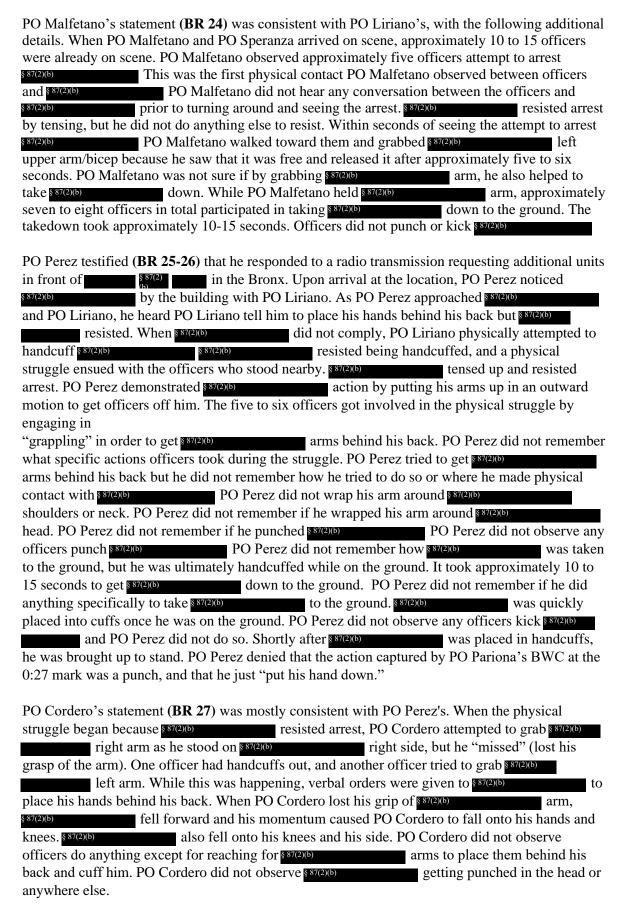
down to the ground.





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that his injuries were specifically a result of the officers' actions.

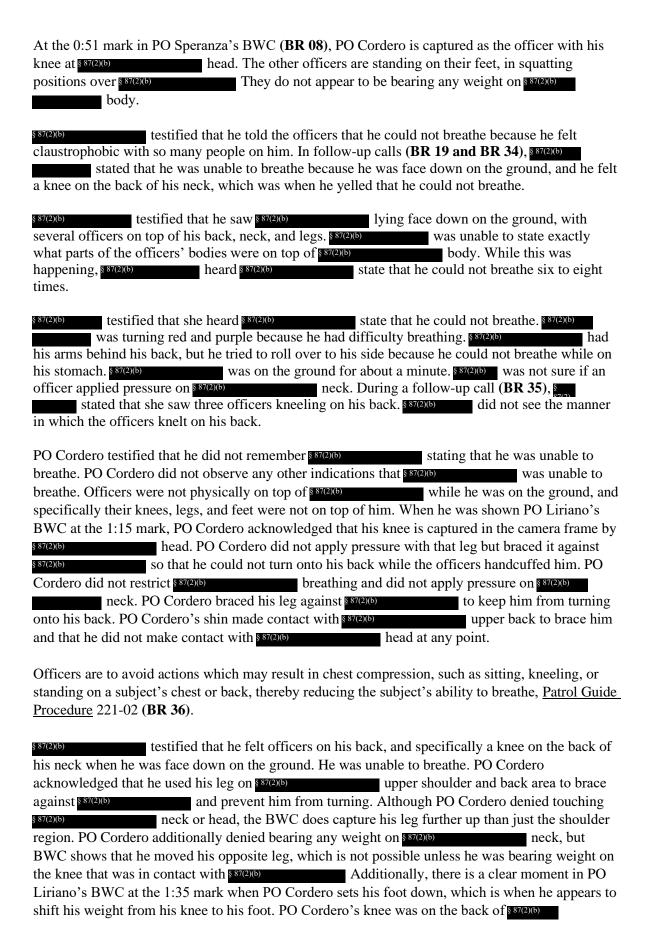


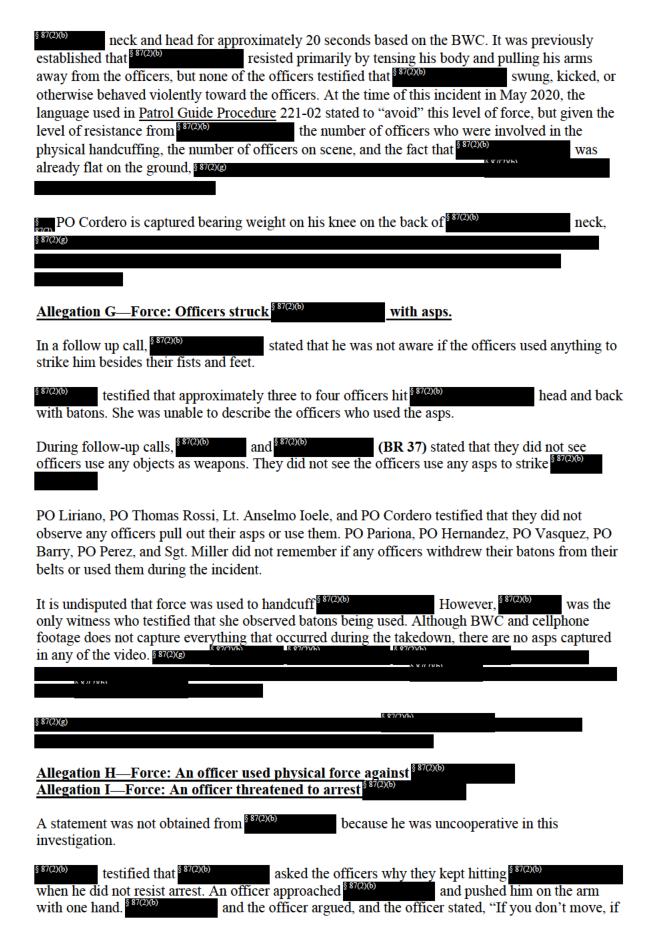
PO Pariona's statement (BR 28) included the following additional details. Within 45 seconds of the officers trying to arrest appeared to tense up his body to resist being handcuffed as an officer tried to grab his wrist or arm. PO Pariona believed that \$870,00000000000000000000000000000000000
PO Hernandez testified (BR 29) that he assisted officers by holding from kicking. He did not remember if he held both ankles. did not kick, but PO Hernandez held his ankles as a precaution. On the ground, flailed his arms. PO Hernandez did not remember if any additional officers joined the handcuffing attempt after he began to hold from ankles. The officers were able to handcuff mediately after PO Hernandez began to hold his ankles. PO Hernandez held onto ankles until he was handcuffed and then let go and moved out of the way. PO Hernandez did not see any officers punch or kick section.
As there were several officers that assisted PO Liriano with taking several to the ground and no civilian could specifically identify them, this Allegation B is pleaded to Officers.
According to Arrest #\$\$7000 (BR 30), \$\$7000 was arrested for assault with intent to cause physical injury and disorderly conduct (fight/violent behavior). The narrative states that engaged in a physical fight with \$\$7000 Both parties had minor injuries, both refused medical attention (RMA) on scene. \$\$7000 actions caused public alarm and annoyance which led to a large crowd to gather around. According to Aided Report \$\$7000 sustained bruising to his face and RMA.
Medical record visit to the emergency department from and headaches following the incident with police officers on May 21, 2020. From the pain and right knee pain. Right posterior rib tenderness and mild right knee tenderness are recorded on page 12. From the medical history notes assault and loss of consciousness pleura dyspnea. Final impression signed by from the notes that there were no acute intracranial findings and no evidence of acute cardiopulmonary disease.
Force may be used when it is reasonable to ensure the safety of a member of service or third person

Force may be used when it is reasonable to ensure the safety of a member of service or third person, or otherwise protect life, or when it reasonable to place a person in custody or to prevent escape from custody. If the force used is unreasonable under the circumstances, it will be deemed excessive and in violation of Department policy, <u>Patrol Guide Procedure</u> 221-01 (BR 33).

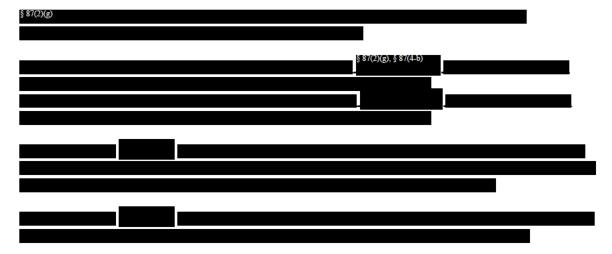
**CCRB Case # 202003500** 

admitted that he resisted arrest by moving physically away and pulling his arm away from PO Liriano. This is consistent with PO Liriano's BWC and officers' statements.
PO Perez is captured in the BWC punching on the back of his ribcage on the right, which is consistent with statement that a punch on his right side caused him to fall.
87(2)(g)
Although alleged that an officer placed in a headlock, he was unable to state whether the officer fully wrapped his arm around neck and throat. Service testified that he did not feel any pressure applied to the front of his neck, and PO Perez denied using a chokehold on Although PO Perez is captured on BWC with his arm wrapped around service upper shoulder and the back of his neck, his arm does not reach to the front of service neck, although moments later his arm does wrap fully around forehead.
87(2)(g)
Although all the civilians alleged that SCOO was punched and kicked multiple times, only PO Perez's punch was captured by BWC, and the kicks were not captured. However, this is insufficient to unfound the additional kicks and punches because of the camera angles. Although felt a kick to his head, he did not know which officer did so, and none of the other civilians were able to provide detailed descriptions of the officers and what specific actions they took. A kick to SCOO head, especially when he was on the ground, would be analyzed differently than other strikes, but all the officers testified that they either did not remember and did not observe any officers kick SCOO
87(2)(g)
Allegation F—Force: Police Officer Jose Cordero restricted \$87000 breathing.
At the 1:29 minute mark in PO Liriano's BWC footage, PO Cordero's left knee is on the back of neck and head. PO Cordero's foot is lifted off the ground and he appears to be bearing weight on his knee. This is confirmed when PO Cordero moves his right foot at the 1:21 mark. He remains in that position until the 1:35 mark, when he plants his foot down and braces his shin against the back of 187(2)(6) head and neck. 187(2)(6) is stood up at the 1:54 mark.





you don't get out of here, you're going to get arrested." stated that he saw § 87(2)(6) interact with an officer. They exchanged words. § 87(2)(b) was uncertain if the officer threatened to arrest or pushed \$ \$7(2)(6) stated that officers probably threatened to arrest some of the people present, but that she did not remember specifically hearing any threats of arrest. When asked if \$87000 she stated that she remembered an officer arguing with She has initially forgotten about the interaction involving §87(2)(6) **but the** question refreshed her memory, and she stated with certainty that an officer pushed [57(2)] did not hear the officer threaten to arrest \$87(2)(6) Allegation J—Force: An officer threated to arrest an individual. testified that an individual named source also told the officers to stop and an officer also told him that if he does not leave, he will get arrested. \$\$7(2)(6) did not know \$\$7(2)(6) name or contact information. and § 87(2)(b) did not recognize the name § 87(2)(b) Allegation K—Force: PO Thomas Rossi used physical force against \$87(2)(0) At the 1:02 mark in PO Rossi's BWC (BR 05), \$87(2)(6) walks back toward the physical interaction and vells that \$87(2)(b) cannot breathe and that she is pregnant. PO Rossi puts an arm up to prevent [87/2] from coming any closer. There is no physical contact. At the 1:30 mark, PO Rossi places his right hand on the front of \$3000 left shoulder and pushes her back slightly. At the 1:32 mark, \$8000 repeats that she is pregnant, and PO Rossi states that he does not care and to move back. At the 1:34 mark, \$87(2)(6) holds \$87(2)(6) by her shoulders and pulls her back. During a follow-up call, sage stated that PO Rossi stood approximately two feet in front of her and pushed her, even though he knew she was pregnant. [57(2)(6)] was propelled backward because of the push and had to take two steps back to regain balance. PO Rossi testified that store attempted to walk past PO Rossi toward the arrest scene. PO Rossi asked her to step back because she was interfering with an arrest. \$87000 continued to try to get past PO Rossi, ignoring his orders. PO Rossi told her that she could not get close. After ignored approximately five orders to get back, PO Rossi put his open hand on shoulders to guide her back approximately one foot. testified that PO Rossi pushed \$87(2)(6) and PO Rossi denied pushing \$87(2)(6) BWC corroborates PO Rossi's statement and shows that although there was brief physical contact from approaching officers as they arrested \$87(2)(6) it was not a push.



## **Civilian and Officer CCRB Histories**

- This is the first CCRB complaint to which \$87(2)(6) has been a party (BR 38).
- § 87(2)(b)
- PO Liriano has been a member of service for four years and has been a subject in four cases and 14 allegations. All four cases are pending investigation.
- PO Cordero has been a member of service for seven years and has been a subject in 11 cases and 25 allegations, of which three have been substantiated:
  - 201702059 involved a substantiated allegation of frisk against PO Cordero. The Board recommended command level instructions and the NYPD imposed formalized training.
  - 201706354 involved substantiated allegations of retaliatory summons and vehicle search against PO Cordero. The Board recommended charges and the NYPD imposed forfeited vacation days and training.
- PO Perez has been a member of service for 15 years and has been a subject in eight cases and 17 allegations, of which one has been substantiated:
  - 201606548 involved a substantiated allegation of physical force against PO Perez.
     The Board recommended Command Discipline A and the NYPD imposed formalized training.
- PO Rossi has been a member of service for six years and has been a subject in one case and one allegation, which was not substantiated.

## Mediation, Civil and Criminal Histories

This complaint was not suitable for mediation.

	-	York City Office of the Comptro regards this to complaint (BR 42	
Squad No.:	6		
Investigator: _	Lily Kim Signature	Investigator Lily Kim Print Title & Name	3/18/2022 Date
Squad Leader: _	Signature	Print Title & Name	Date
Reviewer:	Signature	Print Title & Name	Date

[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]